

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-8 and 10-30 remain pending. The Examiner noted that claims 9-12 remain withdrawn. It is noted, however, that claim 9 was canceled in the December 15, 2005 Amendment. Claims 10-12 remain withdrawn from consideration.

Claims 19, 21, 28 and 30 were rejected under 35 USC 112, second paragraph, as being indefinite. In this regard, it is respectfully submitted that "opposes to" or "is opposed to" is generally understood to refer to "disposed in facing relation to". This means that the components are similarly oriented and spaced apart. Thus, these claims have been revised to change "opposes to" to --is substantially horizontally disposed and spaced from--. It is respectfully submitted that no new issues have been raised by the above-noted revision to claims 19, 21, 28 and 30 because this amendment is offered solely in response to the Examiner's formal rejection, reduces issues on appeal by obviating the formal rejection and merely revises these claims to recite the orientation that would have been understood by the skilled artisan from the terminology previously used. Reconsideration and withdrawal of the rejection under 35 USC 112, second paragraph, is solicited.

Claims 1, 16 and 17 have been rejected under 35 USC 103(a) as being unpatentable over Hazama in view of Farrar. Claims 2-8, 18, 20, 27 and 29 were also rejected under 35 USC 103(a) as being unpatentable over Hazama and Farrar when taken in view of one or more tertiary references. Applicant respectfully traverses these rejections.

It is respectfully submitted that, at least with respect to claims 1-8, 16 and 18-28, Hazama is disqualified from being prior art under 35 USC 103(a) under 35 USC 103(c). In this regard, submitted herewith is a verified translation of applicant's priority

Japanese Application No. 2002-304139, filed October 18, 2002. It is respectfully submitted that, on information and belief, at least claims 1-8, 16 and 18-28 are supported by the disclosure of JP '139 so that these claims are entitled to the benefit of the filing date of applicant's first priority application. As such, the cited Hazama patent constitutes statutory prior art with respect to those claims only under 35 USC 102(e). Hazama is assigned to DENSO Corporation, the assignment having been filed for recordation on July 1, 2002. On information and belief, the invention of the present application was made by the inventors during and as a part of their employment by DENSO Corporation such that the inventors were at all times under obligation to assign the subject invention to DENSO Corporation and an assignment to DENSO was filed and recorded in respect to the subject application in due course on October 3, 2003. Therefore, at the time the present invention was made, it was owned by or under an obligation of assignment to the same assignee as the cited Hazama patent. Therefore, under 35 USC 103(c), the Hazama patent is disqualified from being prior art under 35 USC 103(a) at least with respect to claims 1-8, 16 and 18-28, which are supported by applicant's '139 priority document.

It is noted that the Hazama patent was earlier published as US Patent Publication No. 2003-0002997 on January 2, 2003. This publication date was after the October 18, 2002 filing date of applicant's first priority document JP '139. Thus, the published Hazama application also only constitutes statutory prior art under 35 USC 102(e) and is disqualified under 35 USC 103(c) as prior art under 35 USC 103(a) against claims 1-8, 16 and 18-28 for the same reasons as the Hazama patent, in view of the common ownership.

The Japanese priority application of the Hazama patent, JP 2001-198528 was published in Japan on January 15, 2003. In view of the perfection of applicant's priority claim, the published foreign priority application does not constitute statutory prior art with respect to claims 1-8, 16 and 18-28.

With regard to claim 17, claim 17 has been amended above so as to limit the jet nozzle to being grounded via the fuel tank. It is respectfully urged that the amendment to claim 17 raises no new issues as the grounding via the fuel tank was previously recited in claim 17, albeit as an alternative. Thus, the amendment to claim 17 raises no issues not previously raised in regard to this case.

It is respectfully submitted that claim 17 is not anticipated by nor obvious from Hazama taken in combination with Farrar. In this regard, neither Hazama nor Farrar teach or suggest the structure defined by claim 17, in particular wherein the jet nozzle is grounded via the fuel tank. It is therefore respectfully submitted that the present invention would not have been anticipated by nor obvious from Hazama in combination with Farrar. Claims 29 and 30 depend from claim 17 and are submitted to be allowable at least for the same reasons.

Applicant notes with appreciation the Examiner's indication that claims 13-15 are allowed and that claims 22-26 contain allowable subject matter.

It is further respectfully noted that claims 19, 21, 28 and 30 received no rejection over the prior art, but rather were rejected solely under 35 USC 112, second paragraph. In view of the clarifying revisions above to claims 19, 21, 28 and 30, it is respectfully submitted that these claims are now in full compliance with 35 USC 112, all paragraphs. Because these claims received no rejection over the prior art, they should be allowed as well.

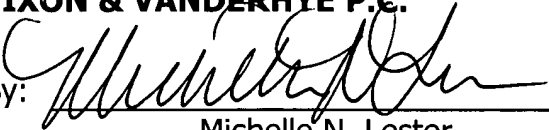
All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

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Respectfully submitted,

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